IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2183 OF 2004

IN
SUIT NO.2101 OF 2004

Ashish B. Baldota Asha ....Plaintiff

V/s.

M/s. New India Cable Corpn. & Ors. ....Defendants

Mr.Bharat Vaishnawa, Advocate, with Mr. A.B. Dubey i/b. B. Vaishnawa & Co., for the Plaintiff.

Ms.Preeti Gada, Advocate, i/b. Mr. R.H. Joshi, for Defendant Nos.1 to 4.

CORAM: S.J.VAZIFDAR, J.
DATED: 13TH SEPTEMBER, 2006.

P.C. :-

. The suit is for a declaration that the Plaintiff is a co-owner having 50% share in the suit premises namely a 'Factory Building' consisting of a ground floor and two mezzanine floors.

2. For some time I was of the view that I was unable to understand the submission on behalf of the Plaintiff. I, therefore, clarified more than once that what I am about to state is the submission on behalf of the Plaintiff.

3. It was submitted that the premises belong to

Defendant No.5, i.e. Shree Laxmi Woollen Mills Estate Ltd. Defendant No.1 is a partnership firm which is admittedly the tenant in respect of the suit premises owned by Defendant No.5. Defendant Nos.2, 3, 4 and the Plaintiff's father, who retired on 21st November, 1997, were the partners of Defendant No.1. The Plaintiff himself was not a partner of Defendant No.1.

4. The claim of ownership is based on Exhibit 'B'. Exhibit 'B' is the share certificate in the joint names of the Plaintiff and Defendant No.4. The share certificate is in respect of 2609 Equity Shares of Defendant No.4. The share certificate has nothing to do with the suit property. To ensure that, I set out the submission on behalf of the Plaintiff accurately I will quote the learned counsel's submission verbatim :-

> "By virtue of being a joint holder of the equity shares of Defendant No.5, the Plaintiff is entitled to a 50% share in the suit premises owned by Defendant No.5 of which Defendant No.1 is the tenant."

. The submission is unsustainable. I do not believe it even warrants any consideration.

6. The right as a shareholder of Defendant No.5 cannot possibly give the Plaintiff any right in the said property. Nor can it create any right in favour of the Plaintiff in the tenancy of Defendant No.1. Admittedly the Plaintiff does not have tenancy rights in respect of the said property by reason of any act on behalf of Defendant No.1.

7. Notice of Motion is accordingly disposed of.